

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

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|-----------------------|---|-------------------------------|
| (1) ANGELA YETTER and |) | |
| (2) MARK BLAKELY |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | Case No.: <u>CIV-14-110-C</u> |
| |) | |
| (1) FARMERS INSURANCE |) | |
| COMPANY, INC., |) | |
| |) | |
| Defendant. |) | |

NOTICE OF REMOVAL

Defendant, Farmers Insurance Company, Inc. ("Farmers") pursuant to 28 U.S.C. §1441 et seq. and Local Court Rules of the United States District Court for the Western District of Oklahoma, states as follows:

1. The above styled cause was commenced in the District Court of Oklahoma County, State of Oklahoma and is now pending in that court. Process was served on Farmers by certified mail on the Oklahoma Insurance Commissioner on January 15, 2014. A copy of Plaintiffs' Petition setting forth a claim for relief upon which the action is based is attached hereto and marked as Exhibit 1. A copy of the Summons served upon Farmers is attached hereto and marked as Exhibit 2.
2. Plaintiffs at all pertinent times to this lawsuit were resident of Oklahoma County, Oklahoma.
3. Farmers is a foreign corporation doing business in the State of Oklahoma. Farmers is incorporated in and has its principal place of business in Kansas.

4. The amount in controversy is greater than \$75,000 as set forth by Plaintiffs in their Petition. This lawsuit involves damages to Plaintiffs' residence caused by a natural gas explosion at a nearby residence on January 3, 2013. Plaintiffs seek a money judgment against Farmers for contractual damages, bad faith damages and punitive damages all in excess of \$75,000. Plaintiffs have asserted causes of action for breach of contract, breach of the duty of good faith and fair dealing and punitive damages. Under Oklahoma law, a plaintiff may be awarded, as punitive damages, the greater of actual damages or \$100,000 for breach of the duty of good faith and fair dealing by the plaintiff's insurer. If the jury finds the insurer intentionally and with malice breached its duty of good faith and fair dealing it may award \$500,000 or twice the actual damage. 23 O.S. §9.1 (2003). "[P]unitive damages may be considered in determining the requisite jurisdictional amount." *Woodmen of World Life Ins. Soc. v. Manganaro*, 342 F.3d 1213, 1218 (10th Cir. 2003); *see also Geoffrey E. Macpherson, Ltd. v. Brincell, Inc.*, 98 F.3d 1241, 1244-1245 (10th Cir. 1996). Thus, the amount sought, by Plaintiffs, for actual and punitive damages, exceeds the jurisdictional amount of \$75,000, exclusive of interest and costs. Clearly, "it cannot be said 'to a legal certainty that the claim is really for less than the jurisdictional amount'" *Geoffrey E. Macpherson, Ltd.*, 98 F.3d at 1245 (quoting *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 289 (1938)).

5. As a result of diversity of citizenship, and since the amount in controversy exceeds \$75,000, exclusive of interest and costs, this is an action over which the United States District Court for the Western District of Oklahoma has original jurisdiction pursuant to 28 U.S.C. §1332(a).

6. No other process, pleadings or orders were served on Farmers to date.

7. A copy of the Oklahoma County docket sheet is attached as Exhibit 3.

GIVENS LAW FIRM

BY: /s Sheila R. Benson

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CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of February, 2014, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Timothy B. Hummel
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Attorney for Plaintiffs

/s Sheila R. Benson